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THE EARLY LIFE OF OLIVER ELLSWORTH

AMERICANS nowadays display but little fondness for the earlier periods of our national history. Perhaps one reason is that along with our astounding growth in territory and power and wealth there has grown up in us a pride of mere bigness that makes us impatient of the little things it all began with. Another reason may be that we have wandered so far away—and more ways than one—from those ideals which the founders, whenever we turn back to them, seem to be forever holding up to us, not without an effect of warning and reproach. But I think that many of us may also be rendered skittish of Revolutionary history and biography from our distaste for the kind of fervor with which they are commended to us. The zeal displayed in celebrating the founders is too often merely partizan or merely academic or merely antiquarian—or merely feminine. Of late a journalistic impulse has set some rather clever pens to work, revamping our oldest stories, upsetting our most dignified traditions, and disturbing our reverence for our greatest national characters. But this brisk iconoclasm reflects too clearly the commercial motive which is now so dominant in all our journalism to take strong hold of any but a rather shallow class of minds.

In one way or another, however, by partizans or antiquaries, by learned professors or by clever space-writers, by pious descendants or by women's clubs, all but a very few of the leading actors in our earlier scenes have been from time to time sufficiently, if not always quite fittingly, bewritten and belauded. John Marshall's fame is still, it is true, for want of a competent biographer, one of the vaguest of our national possessions; and even of Washington there is not yet a written life of a preëminence comparable with that of his career and character. But I think no other in the whole list of Revolutionists and founders is at present in quite such danger of losing his right place and rank as Oliver Ellsworth, of Connecticut. Historians apart, and a few lawyers with a historical turn of mind, the chances are that not one in a hundred of his countrymen knows to-day a single fact about him, save that he was once, for a little while, chief justice of our highest court. Two brief accounts of him were published about the middle of the last century, but both belong to series of lives of the chief justices, now but little read.

Yet the truth is that if any one man can be called the founder, not of that court only, but of the whole system of federal courts, which many think the most successful of the three departments of our government, Ellsworth is the man. In the famous Convention which determined the entire framework of the government, he was one of the members whose names should always be associated both with the general character of the Constitution and with important specific clauses. To scholars it is known also, though the evidence is somewhat vaguer, that he had already done good service in the Continental Congress. In the first half-dozen years of Congress under the Constitution, when it was almost constantly engaged in constructive legislation second in importance only to the Convention's, his influence was so great that if any man could be called the leader of the Senate in that period it was he. His, also, was the leading rôle in one of two negotiations with foreign powers on which, even more than on domestic controversies, the safety of the young republic seemed for a long time to depend. For more than a quarter of a century, beginning with the nation's birth, he was, with scarce an interval, engaged with great affairs and in high places. That he was, for a few years, the head of the judiciary, before its work had reached a very high importance—this is by no means his chief title to remembrance. It is, rather, the most factitious of his claims. But if, on the other hand, it is not a mistake to count the founding and the working of governments among the noblest of all mundane enterprises, other and more solid services to his country demand for this colonial lawyer greater honor than has ever been his portion since his life-work was finished—now nearly a century ago.

A word concerning the probable causes of the neglect of Ellsworth may not be amiss. If the accidental plays a part in life and in history, it plays at least an equal part in historiography and biography. Students of the history of literature know well enough how hard it is to secure for the contemporaries of the greatest masters their just award of fame. If Shakespeare had not lived when he did, a dozen poets and dramatists would doubtless be esteemed more highly than they are. In affairs the misfortune of the second-bests is quite as great. The contemporaries of Washington and Hamilton and Jefferson, or of Lincoln and Lee and Grant, lose by obscurity more than they gain in reflected luster. In nearly all his memorable activities Ellsworth was the associate of very famous men. In the Continental Congress he was often detailed for special services with Hamilton and Madison. In the Constitutional Convention none of the younger members could hope to make such a

figure as Washington and Franklin, while the actual lead in the debating fell most naturally to Madison and Randolph and Morris and Wilson. When he became a senator, Ellsworth's real leadership was never clear to his contemporaries, for the debates were secret, and men like Robert Morris and Richard Henry Lee were once again his fellows. As chief justice he followed Rutledge; but Rutledge's service was so short that Ellsworth might as well have had John Jay for his immediate predecessor; and his immediate successor, who held the place a third of a century, was probably the greatest judge in the whole long history of English and American jurisprudence. Turning his hand to diplomacy, Ellsworth made a very important treaty with France. But Jay's treaty with England, negotiated but a few years earlier, had become the target of the opposition in its fiercest attacks; it attained, therefore, by party controversy, a celebrity which neither Ellsworth's nor any other later treaty has ever rivaled. Even in his capacity of Connecticut leader and representative, Ellsworth was again and again the colleague of Roger Sherman, an elder if not a better statesman.

That he belonged to the little colony of Connecticut may also, not unreasonably, be set down as a sort of mishap to his fame. He himself was very far indeed from thinking it a misfortune. "I have visited several countries," he said, when he was growing old, "and I like my own the best. I have been in all the states of the Union, and Connecticut is the best state. Windsor is the pleasantest town in the State of Connecticut, and I have the pleasantest place in the town of Windsor. I am content, perfectly content, to die on the banks of the Connecticut."¹ But it is no controversion of his loyalty to hold that from the banks of the Charles or the Hudson or the Potomac he might have found a shorter path to eminence among his contemporaries and to the reverence of later generations. If he had lived in any one of the bigger colonies, leadership in Congress and Convention would doubtless have been easier to win. A New England worthy, he would have stood a better chance of competent literary celebration if he had belonged to Massachusetts. Americans from all quarters have long been content to learn their country's history from a group of writers who, since their own homes have been in eastern Massachusetts, naturally enough, and with a spirit that ought to be emulated rather than reviled, have guarded from oblivion the great men of their own famous commonwealth. Had Ellsworth been of these, he would doubtless have found a competent biographer among the men of letters of Boston

¹ "An opinion handed down by Oliver Ellsworth", which hangs in a frame beneath his bust in the drawing-room of his home at Windsor.

and Cambridge. But Connecticut, colonized in large part from the slightly older province, has too often been content to accept the place which the people of the Bay Colony assigned her, and to figure in history as a sort of *Hinterland* to Massachusetts. In later years her nearness to the still more populous and wealthy state of New York, and to the greatest of our cities, has affected in much the same way the popular notion of her importance. Referring to this disadvantage of her geographical situation, more than one Connecticut orator has compared the state to Issachar, "a strong ass crouching down between two burdens".¹ To many of us Connecticut still remains, therefore, in history as in geography, a little state between New York and Massachusetts. Ellsworth also remains what at one time, occupying a compromise position, he probably seemed to his contemporaries: an obscure figure of a statesman, between, let us say, John Adams and Alexander Hamilton.

Every day, hurrying in swift railroad trains from New York to Boston or from Boston to New York, hundreds of people thunder across the entire east-and-west extent of the intervening commonwealth. From north to south an ardent pedestrian has walked across it in a single day. Most travelers, passing over it, leave it still unvisited. Yet if one pauses for a closer view, there is much worth seeing in Connecticut. Though the visitor may know already the New York highlands and the Hudson river about West Point, even though he may also know the charm of Massachusetts's landscapes and the rugged splendors of her northern shore, he will wonder why one hears so little of the beautiful valley of the Connecticut.

For any one who cares to look into the history of Connecticut, there are equal surprises. There is in it the very essence of those New England ideals, the fullest exhibition of those New England characteristics, for which we oftener look, instead, to Massachusetts. It was the opinion of Alexander Johnston that Connecticut had so good a government as a colony, and had progressed so far in the experiment of democracy, that when the time came for our greater national experiment she presented the best of all the object-lessons which the founders had before them.² He held, accordingly, that to

¹ Colonel Wadsworth, in proceedings of Connecticut assembly, reported in *American Museum*, October, 1787, 398. Ellsworth, January 4, 1788, in convention to ratify the Constitution. Elliot, *Debates*, II, 186.

² Alexander Johnston, *Connecticut*, preface, viii, ix, and pp. 322-326. But in this REVIEW (IX, 480, note) Professor Max Farrand has pointed out that the evidence is wanting to prove that the Constitutional Convention of 1787 ever did take the Connecticut system as a model in any portion of its work. Johnston's contention that Connecticut afforded also an example of the successful working of the federal principle is, I suppose, no longer accepted by students of colonial history.

the general scheme of our government no other state contributed so much of what was new, of what was American. Such a claim, from such a source, is enough to arrest one's attention, even though the various chronicle of Massachusetts distract from one side, while on the other side there bulks the central importance of the greatest of our states and cities.

The ancient town of Windsor, a few miles north of Hartford, is at the center of Connecticut's most charming stretch of country. It is the center also of much of what is best and strongest in the traditions of the little commonwealth. "Ancient Windsor" now, the place was at least Old Windsor to the generation that fought the War of Independence. Along its main street, which follows for some miles a slight ridge or sand-bank parallel to the broad and straight Connecticut river, scores of colossal elms, and an extraordinary number of good colonial houses behind them, bear witness to its age. It was, in fact, one of the three towns with which Connecticut history began; and throughout the colonial period, the Revolution, and the early years of independence, it contributed to the service of the colony and the state a long list of honorable names. They are, with very few exceptions, names that clearly reveal the source of the first immigration in the great middle class of English society. The only perceptible admixtures are Scotch, or Scotch-Irish, and Huguenot French. On the gravestones of the old Windsor burial-ground one finds the epitaphs of generation after generation of Allens and Allyns, Bissells, Browns, Cookes, Drakes, Edwardses, Eggles-ton, Ellsworths, Enos, Filleys, Fitches, Gaylords (originally Gaillard and French), Gilletts (originally Gillette and also French), Grants, Griswolds, Haydens, Loomises, Mathers, Newberrys, Phelps, Pinneys, Rockwells, Sills, Stileses, Stoughtons, Thralls, and Wolcotts. The same names have appeared and reappeared at frequent intervals for two centuries and a half in the public records of the town, the colony, the state. Several have risen, on the wider field of the national service, to very high distinction. Generals and judges and admirals, inventors and men of letters, leaders in great business enterprises, congressmen and senators, and at least one President, have traced their descent from the men who came to Windsor when the country all about it was a wilderness. The two Windsor names which emerged into the clearest light between the settlement and the Revolution were those of Edwards and Wolcott. In that part of the town which lay to the eastward of "the great river", Jonathan Edwards was born; and for a hundred and fifty years there was scarcely a single Windsor generation that did not look to a Wolcott as the foremost citizen.

The first of the Ellsworths came about the middle of the seventeenth century. Whence he came is not precisely known; the best-derived conjecture is, from Yorkshire, where the name is still quite common.¹ Neither is it known precisely when he came, but the town records show that in November, 1654, he was married to Elizabeth Holcomb, and that, the same year, he bought a home in that part of Windsor which lay to the south of "the little river", as the Farmington was called, and to the west of "the great river". Ten years later, however, he moved across the little river to North Windsor and made his home on a plot of land which for two hundred and thirty-nine years remained in the hands of his descendants. From the town and church records we learn further that he was made a freeman in 1657, a juror in 1664, that in 1676 he gave three shillings for the relief of the poor of other colonies, and that when he died his estate was valued at £655—which, for the times and the country, was no mean sum. A curious list of taxpayers,² made in 1675, shows that for substance he ranked among the first of his contemporaries. There were five classes in all, and the highest class, each of whom possessed "a family, a horse [and] four oxen", numbered but twenty-nine. Ellsworth was of these. His gravestone adds to these proofs of his good standing a military title somewhat more distinguished in the seventeenth century than it is in the twentieth. The inscription reads: "Sargient Iosiah Elsworth Aged 60 years He dyed August the 20th Day; Ano. 1689."³

Nine children were born to him, and the graves of his descendants are clustered thick about his own. Many of these are marked with gravestones, bearing each a title or a pithy record of some good work done, or at least some honorable place held, in the little community. The sixth child and third son of the immigrant is designated on his gravestone simply as "Mr. Jonathan Elsworth";⁴ but it is otherwise known of him that he was born in 1669, that he died in 1749, that he was a successful storekeeper and tavern-keeper, a

¹ Henry R. Stiles, *The History and Genealogies of Ancient Windsor* (Hartford, 2 vols., 1891-1892), II, 208-210; manuscript notes by Mr. W. Irving Vinal; two manuscript lives of Oliver Ellsworth, one by Joseph Wood, Ellsworth's son-in-law, the other by Reverend Abner Jackson, president of Hobart College, who married a granddaughter of Ellsworth.

² Stiles, *Ancient Windsor*, I, 88.

³ The first name is sometimes given as Josias. For most of these facts, see *ibid.*, II, 210.

⁴ But in the family Bible of Chief-Justice Ellsworth his name is given as David. This is puzzling, for all the other records name him Jonathan. The best conjecture I can make by way of explanation is that by a slip of the pen the chief justice wrote his father's name for his grandfather's—a strange mistake to make, it must be admitted, and a stranger still not to have corrected.

man of good sense, including a sense of humor, and that in person he was tall and strong. His wife was a Grant.¹ Their seventh child and fourth son, born in 1709, was christened David, and it is "Capt. David Ellsworth" (this time with two l's) on his gravestone. The title was not an empty one, for he served in the War of the Spanish Succession, known in America as the Old French War, and in 1745 commanded a company from Windsor at the famous siege of Louisbourg. Returning in safety from that expedition, which was by no means a holiday affair, he lived to the eve of the recognition of the colonies' independence, and nearly all his life he was selectman of his native town. Inheriting a hundred pounds, he had the industry and the shrewdness to accumulate a considerable estate, and to win the reputation of being an excellent farmer. A grandson has recorded that "He had much cunning, or quick wit, and very sound judgment".² His wife, who was Jemima Leavitt, of the neighboring village of Suffield, is somewhat formidably described as "a lady of excellent mind, good character, and pious principles". Surviving him, she was married again, at the age of sixty-two, to a wealthy citizen of East Windsor.³

The highest and stateliest of all the monuments in the Ellsworth family group, rising up from the rear of the pleasant little burial-ground behind the old First Church, and overlooking the little river, marks the grave of Oliver, the second son and second child of Captain David and his wife Jemima. He was born on the twenty-ninth of April, 1745, and belongs, therefore, to the generation that came to its prime about the beginning of the War of Independence.

It is necessary to be brief with his childhood and boyhood, for little or nothing is known of his life in this early period. A farmer's boy in a provincial country town, he was doubtless accustomed to frugal fare, simple amusements, and hard, wholesome tasks. Beyond question he was from his childhood made familiar with the doctrine and observance of the Congregational church, the established church of the colony. Since Connecticut from a very early period had maintained an excellent school system, supported by taxation, and since Windsor was an old town of considerable wealth, we are also reasonably sure that his early schooling was as good as could be had anywhere in the colonies. But what sort of pupil he was, or indeed what sort of boy he was, we do not know. One fact, how-

¹ Stiles, *Ancient Windsor*, II, 210-211; manuscript notes in the collection of Mr. W. Irving Vinal.

² Manuscript of Oliver Ellsworth, Jr., a son of the chief justice, quoted in Stiles, *Ancient Windsor*, II, 212.

³ *Ibid.*

ever, may be taken to indicate that he was thought a boy of promise. His father early set about to prepare him for the ministry; and in colonial New England the ministry ranked so high among the professions that only a boy of promise would be brought up to aspire to it. With that career in view, he was sent to the Reverend Dr. Joseph Bellamy, of Bethlehem, a friend of Jonathan Edwards, famous as a preacher throughout New England, and known by his writings even in England and Scotland. Dr. Bellamy prepared him for college, and in 1762, at the age of seventeen, he entered Yale.

But it was twenty-nine years before he got a Yale degree, and then it came to him, not as in course, but *honoris causa*. He remained at New Haven only to the end of his sophomore year, and there is reason to believe that either he or the authorities of the college, and not improbably both, would have been better pleased to close the connection even sooner. He entered, it seems, at a time of undergraduate discontents such as all colleges now and then have to weather. The long administration of President Thomas Clap was drawing to a close; and his headship of the still struggling seminary, though admirable for vigor and devotion, had been growing too arbitrary to please the student body. There was much complaint also of the tutors; and it is hardly necessary to add that the students held the immemorial undergraduate conviction concerning the food which was served to them in the college commons, and that they did not forbear, when occasion offered, to make their disapproval known. It must be confessed that even a moderate epicure could have found a trifle to criticize, now and then, in the college fare. According to a set of regulations in force about this time, breakfast for four was one loaf of bread. Dinner was more substantial; but supper, also for four, was an apple-pie and one quart of beer.¹ If young Ellsworth had made a request forever associated with his Christian name, he would doubtless have won distinction earlier than he did.

The intellectual fare was, it would seem, neither more abundant nor more tempting. At Yale, as indeed at all the colonial colleges, the curriculum was a hard and fast and uniform programme. "In the first Year", so the laws² read, "They Shall principally Study the Tongues and Logic, and Shall in Some measure pursue the Study of the Tongues the Two next Years. In the Second Year They Shall Recite Rhetoric, Geometry and Geography. In the Third Year Natural Philosophy, Astronomy and Other Parts of the Mathe-

¹ Franklin B. Dexter, *Yale Biographies and Annals*, 2d series, 141; Daniel Butler on the Yale Commons, *Yale College* (edited by William L. Kingsley, 2 vols., New York, 1879), I, 297-306.

² Laws of Yale College, 1745, printed in Dexter, *Yale Biographies and Annals*, 2d series, 5.

maticks. In the Fourth Year Metaphysics and Ethics . . . but every Saturday Shall Especially be allotted to the Study of Divinity." It was useless to ask for more, or for any variation in the programme. The teaching force was too small to give well even what was offered. Each of the two or three tutors was responsible for all the instruction, in all branches, that was given to the class or section under his especial care.

The year before Ellsworth entered, there had been so much disorder that a petition, prepared, no doubt, by enemies of President Clap, had been presented to the general assembly of the colony, asking an investigation. "There has been a tumult," a trustee wrote, "the Desk pulled down, the Bell-case broken, and the bell ringing in the night, Mr. Boardman the tutor beaten with clubbs"¹—which was clearly contrary to rule, for penal law number 19 expressly provided: "If any Scholar Shall make an assault upon the Person of the President or either of the Tutors or Shall wound, Bruise or Strike any of Them, He Shall forthwith be Expelled."² Similar disorders arose from time to time until, in 1765–1766, the climax came in a practically unanimous signed petition of the students for the removal of President Clap. During the last term of that year not more than two-thirds of the student body was in attendance. It is not surprising, when one remembers that this was the time of the struggle over the Stamp Act, to find the state of affairs in the college attributed to the spirit of resistance to arbitrary rule which was rising throughout the colonies. General Gage, at Boston, referred to Yale in 1765 as a "seminary of democracy".³ Young Roswell Grant, of the class of 1765, wrote home to his father at Windsor that he would be very glad of a cheese, but added: "Shall not want that Cherry [sherry] you Reserved for me before vacancy, as all the Scholars have unanimously agreed not to Drink any foreign spirituous Liquors any more."⁴ It is clear that undergraduate Yale was at least as patriotic as it was rebellious.

Ellsworth's share in these activities, patriotic and rebellious, cannot now be ascertained. He appears, however, in at least two cases of discipline on the records of the faculty.⁵ His prime offense in the first case, in July, 1763, was the puzzling misdemeanor of joining with ten others, in the evening, "to scrape and clean the college yard"; but a second count arraigned him and his comrades for

¹ *Ibid.*, 682.

² *Ibid.*, 9.

³ *Ibid.*, 3d series, 170.

⁴ *Ibid.*, 94.

⁵ Transcripts from the faculty records, which were kindly made for me by Professor F. B. Dexter.

"having a treat or entertainment last winter"; and still a third count set forth that he and three others "presently after evening Prayers on Thursday last put on their Hats and run and Hallooed in the College Yard in contempt of the Law of College". For these offenses he was fined one shilling. The second case arose the next year, and the charge was that Ellsworth was present "at Bulkley 2^s", at "a general treat or comotation of wine both common and spiced in and by the sophomore class", and the punishment was a fine of four shillings. There were degrees of guilt, for two ringleaders were fined five shillings, Ellsworth and two others four shillings, while the majority of the offenders were let off at two shillings. These performances do not strike one as very damning. They do, however, seem to prove that Ellsworth was once a boy, and that the boys of colonial New England were not entirely unlike their descendants—at least, when they went to college. Perhaps they indicate also that Ellsworth was already out of sympathy with his father's ambition that he should be a minister.

Why he left Yale is not quite clear. President Clap entered in his official journal, under the date July 27, 1764, that "Oliver Ellsworth and Waightstill Avery, at the desire of their respective parents, were dismissed from being members of this College".¹ But among the descendants of Ellsworth at least two other stories are told to account for his departure from New Haven. One is, that at midnight in midwinter he inverted the college bell and filled it with water, which promptly froze.² But this explanation hardly consists with the date of his dismissal. Unfortunately for the other story, it has been told of more than one celebrity, and of other colleges than Yale. It is that Ellsworth was caught by a college officer giving in his room what in his day was called a "treat" but in the college nomenclature of the present day would be called a "spread"; and that the officer, about to enter and disperse the company, was stopped by hearing Ellsworth's voice uplifted in prayer—for there was a college law that no student should be interrupted at his devotions.³ Of this story there is a second version which, even if it were never told of any one but Ellsworth, sounds too modern for belief. It is that the officer was making a round of the dormitory in search of signs which the students had stolen from New Haven tradesmen, and that the words of the prayer he heard were the words of Matthew XII, 39.⁴

¹ Entry copied in a letter from Professor F. B. Dexter.

² Henry Cabot Lodge, oration on Ellsworth, in *A Fighting Frigate and other Essays and Addresses* (New York, 1902), 70, note.

³ Letter from Mrs. Alice L. Wyckoff, of Buffalo, N. Y.

⁴ Letter from Mrs. Geneve (Ellsworth) Stuart, a great-granddaughter of Ellsworth.

For Ellsworth's career at Princeton, tradition is almost the only source of information; the written records of the immediate government of the College of New Jersey in colonial times are not preserved.¹ Younger than either Yale or Harvard, Princeton was also smaller; there can hardly have been a hundred students when Ellsworth entered. Age and size apart, it differed from the other two mainly by the strong infusion of Calvinism in its theology and of Scotch and Scotch-Irish blood in its membership. John Witherspoon had not yet consented to come over from Scotland and head the institution, but President Samuel Finley (1761-1766) was a Scotch-Irish Presbyterian minister with a great reputation in the middle colonies and Virginia.

In respect of the curriculum and the number of teachers, Princeton offered to young Ellsworth no more than Yale had offered; but it was apparently rather more fortunate in its tutors, and in the spirit that informed both the teachers and the taught. The arts of speaking and writing, in particular, appear to have been taught uncommonly well and studied with extraordinary enthusiasm. It is certain that of all the colonial colleges, Harvard and William and Mary not excepted, no other was at this time training so many debaters for the Continental Congress and the still undreamed-of Constitutional Convention.² Waightstill Avery, Ellsworth's companion in migration, had before him a good career in public life in North Carolina. In the class which they joined, numbering but thirty-one, and a large class for Princeton, were Luther Martin of Maryland, and at least three others with parts to play in the coming political changes. William Paterson, graduated the year before, was living in the village and in constant association with his younger mates. Benjamin Rush, John Henry, Tapping Reeve, Hugh Henry Brackenridge, Philip Freneau, Henry Lee, Pierrepont Edwards, Gunning Bedford, James Madison, and Aaron Burr were all in classes close before or after Ellsworth's class of 1766. Of those students who were not, as the event proved, in training for statesmanship, fully half were preparing for the ministry. It is no wonder that courses in oratory and composition were popular, or that the Stamp Act controversy aroused at Princeton even more discussion than at Yale.

¹ For Princeton at this time see John Maclean, *History of the College of New Jersey* (2 vols., Philadelphia, 1877); John De Witt and Jesse Lynch Williams, "Princeton", in *Universities and their Sons*, I, 439-568; Gaillard Hunt, *The Life of James Madison* (New York, 1902), chap. ii; Woodrow Wilson and John De Witt in *Memorial Book of the Sesquicentennial Celebration of Princeton University* (New York, 1898), 102-131, 315 ff.

² Woodrow Wilson, *ibid.*, 110-114.

Tradition and reminiscence indicate that Ellsworth entered with zest into the somewhat fervid life of his new academic home. A respectable scholar, he was, we are told, remarkably successful in college politics, displaying an uncommon shrewdness, a gift of management, and a talent for debate¹. The best-known story of his Princeton days is of how he circumvented a rule forbidding students to wear their hats in the college yard. Arraigned for breaking the rule, he pointed out that a hat, to be a hat, must consist of a crown and a brim, and proved that the head-piece he had worn in the yard was without a brim—as he had in fact torn off that essential portion of it. A better authenticated and more important tradition indicates clearly enough what the young fellow's tastes and powers were. There seems to be little doubt that he was one of the founders of the Well-Meaning Club, a debating-society, which was suppressed in 1768 but later revived and reorganized as the Cliosophic Society, and is now better known to Princeton men as Clio. Another club, formed about the same time, first called the Plain-Dealing Club, and likewise suppressed in 1768, was reorganized by Madison,² John Henry, and Samuel Stanhope Smith, and named the American Whig Society. Among the college debating-clubs throughout the country, these two Princeton societies hold the first rank for age, for celebrity, and for the names on their rolls of membership. It seems most likely that Paterson, who was fond of such activities, and precisely the sort of man to lead in them, was the moving spirit when Clio was founded; but with his name tradition has firmly associated those of Ellsworth, Luther Martin, and Tapping Reeve.³ There is scarcely to be found, even in the records of the Oxford Union, a coincidence more curiously prophetic. We are told, also, that both these clubs were mightily concerned about the Stamp Act and the relations of the colonies to the mother-country. It is true that New Jersey and the other central colonies had less leadership in the Revolutionary movement than New England or Virginia; but Princeton already drew her students from surprising distances. The acquaintances Ellsworth made there, and the outlook he gained, were doubtless a better introduction to the whole field of colonial politics than he could have got at any other college. Perhaps they helped him to form the

¹ Wood and Jackson manuscripts.

² Hunt, *Madison*, 15; De Witt and Williams, in *Universities and their Sons*, I, 482-484; Maclean, *College of New Jersey*, I, 364.

³ John Addison Porter, "College Fraternities", in *Century Magazine*, September, 1888, 751. For Paterson, see W. Jay Mills, *Glimpses of Colonial Society and the Life at Princeton College, 1766-1773* (Philadelphia, 1903), made up chiefly of Paterson's letters. The corresponding secretary of the Cliosophic Society states that there is no record of Ellsworth's connection with it now in the society's possession.

habit of caution and to develop the instinct for compromise which were, later, conspicuous characteristics. At any rate, he had got what few but the wealthiest young colonials could have—an education a long way from home.

When, however, he went back to Connecticut, his father had not relinquished the plan of making him a minister. He accordingly spent the next year in the study of theology under Dr. John Smalley, of New Britain, a young clergyman of parts, who rose to influence and distinction.¹ But Ellsworth had by this time a clear bent toward the law. When Dr. Smalley directed him to prepare his first sermon, the first ten sheets of his manuscript were given over to careful definition of his terms.² His teacher and his father were at length persuaded that his mind and tastes were better suited to the bar than to the pulpit.

It was four years, however, before he was admitted to the bar; and for those four years, from 1767 to 1771, the record of his life is very scant. He studied law under the first Governor Griswold and under Jesse Root, of Coventry, a young attorney with whom he was later associated in the Continental Congress, and whose name appears many times in the public records of Connecticut. But Ellsworth can hardly have given the whole of the four years to his studies. In one account of his life it is stated that he taught school for a little while³—an experience curiously common in the lives of eminent Americans. When he began practice as a lawyer, he was in debt, and a natural inference is that after he abandoned theology his father made no further expenditures for his education.

In any case, however, his education in the law could not have been elaborate. There were no law-schools in the colonies. The people of Connecticut were thought to be peculiarly and perversely litigious, but the *Commentaries* of Blackstone were still unknown among them. The first American edition of the work was printed in 1771 or 1772, and a copy with Ellsworth's name and the date 1774 on the fly-leaf is still in existence⁴; one conjectures that he never possessed the book, probably never even saw it, until he had been several years in practice. His text-books were Matthew Bacon's *Abridgment of the Law* and Giles Jacob's *Law-Dictionary*.⁵ In fact,

¹ James Hammond Trumbull, *The Memorial History of Hartford County* (2 vols., Boston, 1886), II, 309-310.

² *Centennial Papers of the General Conference of the Congregational Churches of Connecticut* (Hartford, 1877), 107-108.

³ James B. Longacre and James Herring, *National Portrait Gallery*, IV (Philadelphia, 1839), article on Ellsworth, 2 (102).

⁴ W[illiam] B[liss], "Chief-Justice Ellsworth and his Times", in *New York Evening Post*, April 9, 1875.

⁵ Henry Flanders, *The Lives and Times of the Chief Justices of the Supreme Court of the United States* (2 vols., Philadelphia, 1855-1858), II, 59.

there were no text-books, properly so called. It may be added that until very near the time when he began to practice there was considerable opposition to the common law in Connecticut.¹ The colony had begun its legislative history with what looks like a complete disavowal and rejection of the system. It was never adopted by a statute, but came in gradually by a change of usage on the bench and at the bar, as professionally trained practitioners became more numerous. Even when the decisions of the English judges were familiarly cited in the Connecticut courts, the means of studying them were scant and crude. Good law-libraries were extremely rare, and the labors of the colonial lawyer were not made easy by treatises and digests. It is altogether improbable that Ellsworth possessed, at the outset of his professional career, any such store of facts or principles as would now be required of him in an examination for admission to the bar of any New England state. Yet the way he did learn the law was not unlike the method of studying and teaching it which has come of late into very wide acceptance. He mastered it only by searching out and storing in his mind the principles at the heart of particular cases. In that process is involved the essence of the modern "case-system"; and it is doubtful if a better training for the reason has ever been devised.

But the opportunity to learn law even in this way was for a time withheld. Cases to study and to try were not immediately forthcoming. Ellsworth had first to undergo a discipline in patience and frugality which seems to have been severe enough to make his professional career in all respects representative. Somebody has said that poverty and an early marriage make the best beginning of a lawyer's life; and both were in his portion. To pay the debts incurred while he was preparing for the bar he had but one resource—a tract of woodland on the Connecticut which had come to him by inheritance or gift.² He tried in vain to sell the land, and then, shouldering an ax, attacked the timber, for which there was a market at Hartford. In this way he cleared himself of his debt. But for three years after his admission to the bar his professional earnings, by his own account, were but three pounds, Connecticut currency. And yet, in 1772, a year after his admission, he was married.

His bride was Abigail, the daughter of Mr. William Wolcott, of East Windsor, a gentleman of substance and distinction, and a member of that same Wolcott family which had held so high a place

¹ Ephraim Kirby, *Reports of Cases Adjudged in the Superior Court of the State of Connecticut, 1785-1788* (Litchfield, 1789), preface, iii; Wood MS.; Dwight Loomis and J. Gilbert Calhoun, *Judicial and Civil History of Connecticut* (Boston, 1895), 176-177; *Analectic Magazine*, III (1814), 385.

² Wood MS.; Flanders, II, 59-60.

in the community from the very beginning. The tradition is that when Ellsworth made his first visit at the Wolcott house, he called for an elder sister, but that the black eyes of Abigail, who sat demurely carding tow in the chimney-corner, made him change his mind, and the next time he went there he called for her.¹ A portrait of her, painted when she was in middle life, suggests rather the good and cheerful housewife than the sort of colonial beauty whom Colonial Dames are now so fond of celebrating. One or two anecdotes, however, present her to posterity as an uncommonly loving and lovable woman. She was given to charity, and her life abounded in kindness to all about her. That a briefless young lawyer could win, apparently without objection from her family, the daughter of so respectable a house is evidence of the wholesome democracy in which they lived. It is evidence, too, of the simplicity and strength of their affection for each other. That, happily, was strong enough to last them through their lives. The biographer of Ellsworth is often tempted to complain of the scarcity of purely personal details; but he is happily spared the temptation to stir the interest of his readers with any parade of family skeletons. In all that pertained to his family and his home, Ellsworth was both wise and fortunate.

The two began life on a farm which belonged to Ellsworth's father, and which the son now took over to cultivate, either, it seems, on shares, or on a lease for rent.² It lay in the northwest part of old Windsor, which was then called Wintonbury, and is now called Bloomfield. The land was unfenced, and Ellsworth with his own hands cut and split the rails and built a fence about it. Too poor to hire a servant, he did himself all the heavier household chores, and twice a day when court was in session he walked the ten miles between his home and his office in Hartford. Once, when a wealthier neighbor passed him in a carriage and told him that a man in his position ought to be riding and not walking, Ellsworth cheerfully replied that everybody must walk some time or other in his life, and that he for his part preferred to do his walking while he was young and strong. Of course we are also told, for a climax to the story, that a time came later when Ellsworth kept a carriage and his neighbor had to walk.³

The farm must have been the young man's main support during the year or two longer that he had to wait for his first important case. He became an intelligent and zealous farmer; that is more than conjecture. But neither this nor his study of the law can be

¹ Jabez H. Hayden, in *Memorial History of Hartford County*, II, 565.

² Wood MS.; Flanders, II, 61.

³ Wood MS.; Stiles, *Ancient Windsor*, II, 218; Flanders, II, 62.

reckoned his principal achievement between his college days and that success which was soon to be his portion. Scanty as the record of those years is, we know that they covered a very fine and admirable discovery and development of his powers, for when Ellsworth first came fully into the light his character was rounded and hardened into the best type of colonial New England manhood. In later life, he himself, being asked for the secret of his effectiveness, told modestly and convincingly the story of his growth.¹ Early in his career, he said, he made the discouraging discovery that he had no imagination, nor any other brilliant quality of mind. Determined, however, to make the most of such powers as he had, he resolved to study but one subject at a time, and to stick to it until he mastered it. In the practice of his profession, he added, his rule was to go at once to the main points of a case and to give them his entire attention.

In this candid self-examination, this honest acceptance of his limitations, this manly and courageous decision, one finds enough to command one's hearty respect. But it is not to be supposed that by this self-study and this plan of life alone the reasonably mischievous and reckless youngster of Yale and Princeton was at once transformed into a cautious and hard-headed but uncommonly upright lawyer and statesman. None of Ellsworth's New England contemporaries was more thoroughly representative than he was of New England civilization at its best; and colonial New England was already—Switzerland, perhaps, excepted—the soundest democracy in the world. Nowhere else was liberty restrained by such strong reverences, or safeguarded by so practical an instinct, or fortified with a morality so wide-spread and so thoroughgoing. New England society, even in its unspoiled colonial state, had its faults, and some of its faults were hateful. The bit of talk about himself which I have just given is, for instance, almost the only frank and ingenuous revelation of his nature to be found in all that Ellsworth ever wrote and spoke. When he became a man of substance, it was said that he took the utmost pains to conceal from his own household the extent of his wealth. Secretiveness and unresponsiveness were bound to be common among a people who cultivated, almost to excess, the fine qualities of self-reliance and forethought. We shall never be acquainted with Ellsworth or any other colonial New-Englander as we are with famous Americans from other quarters, and with famous Englishmen as well. Wanting, as a rule, in amiability and quick sympathy, the colonial Yankee had also more positive faults. Pecksniffs as well as Dombey's there were no doubt

¹ *Ibid.*, 64-65.

among them. Where all were so free to live their individual lives according to their own ideals, some were surely selfish as well as self-contained. Where so large a number were religious, some were doubtless sanctimonious and hypocritical.

But if we judge them in the mass, it is hard to match them for competency in the management of their own affairs, whether as individuals or in bodies politic, or for fidelity to their difficult ideals. By Ellsworth's time, the Puritan theology was already relaxed into a fairly livable creed. Before he died, the Unitarian movement was already begun in Massachusetts. A general broadening of ideas and sympathies accompanied the religious change. Sloughing off the worst defects of its quality, New England society displayed during the first half of the nineteenth century a spectacle of intelligence, of energy, and of general healthfulness and soundness which has probably never been surpassed.

Ellsworth, whatever slight vagaries he had exhibited in his boyhood, took into his nature and kept throughout his life the best characteristics of his kind. He came to his fine opportunities a completely grown-up man, a quick but ready man, thoughtful and deeply religious, but also ardent, industrious, practical, and shrewd. For the rest, he had got from his ancestors and his healthful country life a superb endowment of physical strength and hardiness. According to the family tradition, his height was six feet two, and he was broad-shouldered and robust. His countenance was not positively handsome. If we may judge from his portraits, until age and suffering had softened it, there was neither sweetness nor distinction in his face; but he had the strong jaws, the long chin, the firm lips, the steady eyes which always indicate the man of purpose and persistency. But to an unimaginative man, with little or nothing of the artist or the actor in his nature, a body and presence such as Ellsworth's was of far less advantage before the public than it might have been had his temperament been different. He used and valued his bodily endowment for hard work rather than for display. The interest of his life is not to be found in dramatic exhibitions of any sort. It lies, rather, in the tasks which his hand found to do—tasks whose value and importance we cannot even yet feel sure that we have measured. He brought to his life-work talents which cannot be called extraordinary in themselves; but he plied them with abundant energy, he ruled them with strong will, he devoted them always to high purposes; and he made them serve.

The beginning of his rise to eminence was professional success; and this, when it did come, seems to have come both swiftly and abundantly. According to his early biographers, a single case, in-

volving an important legal principle, proved to be the sort of opportunity that leads to countless others. The young lawyer managed it so skilfully that he not only secured a verdict for his client but won for himself the respect and confidence of his neighbors.¹ Perhaps it was also on this occasion that he heard from the lips of a stranger what he afterward declared were the first words of encouragement that ever heartened him in his ambition. "Who is that young man?", the stranger was saying. "He speaks well."²

At any rate, from about the third year of his membership of the bar his practice grew very fast, and he rose quite as fast in the esteem of his neighbors. At the autumn session of the general assembly in 1773, he took his seat as one of the two deputies from Windsor, and his name appears in every list of the deputies thereafter until May of the year 1775.³ That year, the year of his thirtieth birthday, was doubtless to him, as to many another young colonial, the *annus mirabilis* of his whole career. Tradition has fixed upon it as the date of his removal to Hartford from the Wintonbury farm⁴. It saw him also engaged in the first of those Revolutionary tasks which were to claim him continuously until the end of the struggle for independence. From that year to the end of the century, in fact, he was scarcely for an instant free from important public responsibilities. But he did not relinquish his profession. Throughout the Revolution, and until the new national government was organized under the Constitution, he was always either actively in practice or else on the bench. It was as a lawyer that he won his fortune and a good part of his fame. It will be best, therefore, before we follow him into the service of his country, to seek some notion of the sort of man he was in the common, daily struggle, and more particularly to learn what we can of his character and figure at the bar.

For this inquiry, few records are available, and these are of little use. In the courts where Ellsworth practiced, the stenographer was

¹ George Van Santvoord, *Sketches of the Lives and Judicial Services of the Chief-Justices of the Supreme Court of the United States* (New York, 1854), 196; Wood and Jackson MSS.

² *National Portrait Gallery*, IV, 103 (Ellsworth, 3); Flanders, II, 63.

³ *Roll of State Officers and General Assembly of Connecticut* (Hartford, 1881), *passim*; *The Public Records of the Colony of Connecticut, 1636-1776* (compiled by James Hammond Trumbull and Charles J. Hoadly, 15 vols., 1850-1890), XIV, 159, 214, 252, 325, 388, 413. All the biographers of Ellsworth have been extremely loose in their statements concerning the offices he held in the earlier part of his career. Where dates are given, they are nearly always incorrect. Perhaps the official records were not accessible when these accounts were written. It is hardly worth while to specify their inaccuracies. Not one of them gives the impression that he was in the assembly as early as 1773.

⁴ In May, 1774, Ellsworth's name first appears in the list of justices of the peace for Hartford county. *Colonial Records*, XIV, 257, XV, 8.

of course unknown; nor did daily newspapers spread before their readers detailed narratives of his causes. Compared with our present usage, the reporting of that day, both official and unofficial, was bafflingly meager. Moreover, Ellsworth himself, though by no means slow of speech, was curiously averse to the pen.¹ There can scarcely be another man of comparable importance in our history who has left behind him so few papers of any sort in his own handwriting. Not one of his court speeches is preserved to us. It is quite probable that none was ever written out. Even his briefs are said to have been exceptionally condensed, setting forth only the principal headings of his arguments.

Fortunately, however, a number of his contemporaries have left us their impressions of Ellsworth as an advocate; and of those contemporaries several were themselves of an eminence to give their judgments weight. One, at least, is better known to-day than Ellsworth is; his name, indeed, is quite probably familiar to more English-speaking people than any other American name but Washington's. In 1779, young Noah Webster was a student in Ellsworth's office and an inmate of his home. Many years later, Webster's eldest daughter was married to one of Ellsworth's sons.² This personal association may perhaps have heightened the lexicographer's opinion of the statesman's importance, for Webster was given to dilating on all things in any way related to his own career. But he was also trained to state facts carefully; and to Joseph Wood, Ellsworth's son-in-law and biographer, he once declared that Ellsworth, even at the time when Webster was in his office, had usually on his docket from a thousand to fifteen hundred cases.³ In fact, Webster added, there was scarcely a case tried in which Ellsworth was not of counsel on one side or the other, and his mind was under a constant strain throughout the sessions. Sometimes, from sheer physical weariness, he would gird his loins with a handkerchief as he rose for an argument in some new case. Perhaps the number of his cases is partly explained by the statement that he excelled in *nisi prius*

¹ "This same Ellsworth is a striking instance how powerful a man may be in some departments of the mind and defective in others. All-powerful and eloquent in debate, he is, notwithstanding, a miserable draftsman." *Journal of William Maclay* (edited by Edgar S. Maclay, New York, 1890), 369. But Wood, Ellsworth's son-in-law, attributes to caution his aversion to writing. He had, according to Wood, a settled conviction that it is dangerous and mischievous for public men to use the pen freely, and he accordingly made it a rule "to make all his manuscripts as brief as possible". Wood MS.

² Horace E. Scudder, *Noah Webster*, in American Men of Letters Series (Boston, 1882), 9; Chauncey A. Goodrich, in his revision of Webster's *Dictionary* (Springfield, Mass., 1851), xv, xxii.

³ Wood MS.; Flanders, II, 63-64.

proceedings. Noah Webster habitually spoke of him as one of the "three mighties" of the Connecticut bar—the other two being William Samuel Johnson and Titus Hosmer.¹

However this testimony may need to be qualified, it is clear that Ellsworth's professional career was extraordinary. It is doubtful if in the entire history of the Connecticut bar any other lawyer has ever in so short a time accumulated so great a practice. It probably reached its height in the years immediately after the war, for the great change gave rise to much litigation, and by that time his reputation was established and his powers at the full. Measured either by the amount of his business or by his earnings, it was unrivaled in his own day and unexampled in the history of the colony. Naturally shrewd, and with nothing of the spendthrift in his nature, he quickly earned a competence, and by good management he increased it to a fortune which for the times and the country was quite uncommonly large². From a few documents still in existence, it is clear that he became something of a capitalist and investor. He bought land and houses, and loaned out money at interest. He was a stock-holder in the Hartford Bank and one of the original subscribers to the stock of the old Hartford Broadcloth Mill (1788)³. But if there were no documents to show the extent of his wealth, his house in Windsor still exists to prove that he was a man of means.

Were this substantial progress and worldly prosperity alone to be considered, we should be sure at least that Ellsworth was a man among men, surpassing the great majority of his contemporaries in sense and energy, a good representative of the strong and sturdy stock he came of. He was not of those who, though fitted for exceptional services or charged with uncommon talents, are yet unequal to the world's incessant and more commonplace demands. But the fact of his getting on so well and fast has its full value to the biographer only when it is added that not one word has come down to us to intimate that there was ever brought against him the slightest charge of trickery or overreaching, or the least insinuation that as a lawyer he was ever accused of any practice at all out of keeping with either his own personal dignity or the standards of the bar. On the contrary, in the praise of his contemporaries his integrity is emphasized quite as often as his ability.

As to the kind and the quality of his excellence as a lawyer, these

¹ Trumbull, *Memorial History of Hartford County*, I, 121.

² Inventory of his estate, made, doubtless, very soon after his death. The whole was estimated at about \$127,000.

³ Ellsworth papers in the public library of the city of New York; Trumbull, *Memorial History of Hartford County*, I, 331, 564.

attempts at portraiture agree fairly well among themselves. They seem also to confirm his own conclusion that he lacked imagination; but in other respects they by no means sustain his extremely modest estimate of his gifts. Dr. John Trumbull, the author of *McFingal*, was doubtless the best wit in the colony, if not in all the colonies, and hardly, therefore, the sort of man to grow enthusiastic over a display of mere unilluminated energy in oratory. He was also himself a lawyer and a judge. And he has left a good comparison between the two foremost advocates of the bar to which he belonged. "When Dr. Johnson rose to address a jury," he said, "the polish and beauty of his style, his smooth and easy flow of words, and sweet, melodious voice, accompanied with grace and elegance of person and manner, delighted and charmed his hearers. But, when Ellsworth rose, the jury soon began to drop their heads, and, winking, looked up through their eyebrows, while his eloquence seemed to drive every idea into their very skulls in spite of them."¹ Johnson², though now but little known, was no mean figure to be thus put forward first in order to a climacteric contrast. The son of the first president of King's College—an office he himself in time succeeded to—and the holder of degrees from Yale, Harvard, and Oxford, he had enjoyed and profited by still another opportunity to acquire culture; for he had represented Connecticut several years at court. It is said that while he lived in London he was admitted to that remarkable circle which gathered round another and more famous Dr. Samuel Johnson, and that he won the great man's distinguished regard. Active in the Stamp Act Congress, and throughout that phase of the colonies' resistance, he was perhaps the foremost man in Connecticut until his unwillingness to go the lengths of an attempt at complete independence left him a few years in retirement. His work in the constructive period after the war was second only to Roger Sherman's and Ellsworth's.

To the less restrained of his and Ellsworth's eulogists he appeared always as the Cicero to the other's Demosthenes.³ It is more important to be sure of the real sources of the strength of a public character than to define his limitations. Stilted, therefore, as this praise of the two colonial lawyers may be, we need not reject the reasonable inference that Johnson was a pleasing and accomplished public speaker and that Ellsworth excelled in a style of oratory that

¹ Flanders, II, 67.

² W. G. Andrews, "William Samuel Johnson and the Making of the Constitution", in *Annual Report of the Fairfield County, Connecticut, Historical Society*, 1889; E. Edwards Beardsley, *Life and Times of William Samuel Johnson, LL.D.* (New York, 1876).

³ Wood MS.

was unadorned, headlong, and compelling. Dr. Timothy Dwight, sometime president of Yale, who tells us that Ellsworth was his "particular friend", described his oratory in these words¹:

His eloquence, and indeed almost every other part of his character, was peculiar. Always possessed of his own scheme of thought concerning every subject which he discussed, ardent, bold, intense, and masterly, his conceptions were just and great; his reasonings invincible; his images glowing; his sentiments noble, his phraseology remarkable for its clearness, and precision; his style concise, and strong; and his utterance vehement and overwhelming. Universally, his eloquence strongly resembled that of Demosthenes; grave, forcible, and inclined to severity.

Elsewhere the same authority describes him in his address to the jury as frequently pouring out "floods of eloquence which were irresistible and overwhelming".² To this, quoted by Joseph Wood, an unknown marginal commentator on Wood's manuscript makes answer, "Dwight must have drawn on his imagination, for Ellsworth was by no means an eloquent speaker." But Wood rejoins, "Dwight was not mistaken, as can be abundantly shown."

Fortunately, there is at least one portrait of the man and the advocate which is convincingly discriminating and restrained. A few years after Ellsworth's death there was published in the *Analectic Magazine*³ an appreciation which is probably still the best portrayal of his intellectual character and methods:

He had not laid a very deep foundation either of general or of professional learning; but the native vigour of his mind supplied every deficiency; the rapidity of his conceptions made up for the want of previous knowledge; the diligent study of the cases which arose in actual business, stored his mind with principles; whatever was thus acquired was firmly rooted in his memory; and thus, as he became eminent, he grew learned. The whole powers of his mind were applied, with unremitted attention to the business of his profession, and those public duties in which he was occasionally engaged. Capable of great application, and constitutionally full of ardour, he pursued every object to which he applied himself with a strong and constant interest which never suffered his mind to flag or grow torpid with listless indolence. But his ardour was always under the guidance of sober reason. His cold and colourless imagination never led him astray from the realities of life to wanton in the gay visions of fancy; and his attention was

¹ Timothy Dwight, *Travels in New-England and New-York* (4 vols., New Haven, 1821-1822), I, 301, 303.

² Quoted in Flanders, II, 66.

³ "Biographical Memoir of Oliver Ellsworth", in volume III (May, 1814), 382-403. The author is supposed to have been Gulian C. Verplanck, of New York, a grandson of William Samuel Johnson. See William Cullen Bryant's memorial discourse on Verplanck, May 17, 1870, New York Historical Society Publications, 1870.

seldom distracted by that general literary curiosity which so often beguiles the man of genius away from his destined pursuit, to waste his powers in studies of no immediate personal utility. At the same time his unblemished character, his uniform prudence and regularity of conduct, acquired him the general confidence and respect of his fellow citizens—a people in a remarkable degree attentive to all the decorum and decencies of civilized life.¹

It is the old story, perhaps, of the will's supremacy; of the central principle, the fighting, vital instinct in a human being, proving, in the long run, of superior importance to any gifts or want of gifts. It is useless to recur to the old contrast and controversy between the men who succeed and accomplish chiefly by reason of what is commonly called character and the men who, with finer instincts and keener susceptibilities and rarer talents, too often end in failure, leaving the world no better for their lives. To most readers Ellsworth's life would doubtless be a more attractive study if, instead of exhibiting such a steady growth in tasks and competence, he and his career were found irregularly brilliant, appealing, with a series of ups and downs, of faults and atonements, to the whole wide range of our human sympathies. It is only in a sober mood, with daylight senses, that one can follow with interest and with understanding the course of such a life. The guiding genius of it all was an English constancy, quickened with a New England keenness, an American capacity and readiness for change. It is impossible to read the descriptions which his contemporaries have made of him without the feeling that nearly all they say of him would apply, with but slight abatements, to hundreds of other New England men, unknown or famous. His distinction consists chiefly in the enlargement of powers and merits which are not uncommon in themselves.

Yet I think we should be mistaken if we were led to believe that Ellsworth was commonplace in either his personality or his parts. Were we to search out the one human characteristic or endowment that has achieved the most, for good or evil, in the whole history of mankind, we should doubtless fix on that one central gift of ardor, energy, or purpose, which was surely his. Nothing else will so invariably, so finally, command our homage. It stands, better than all the other gifts and graces put together, the test of actual results. Unlike the others, it is most impressive not in first encounters but through long acquaintance and the fullest trial. Men of many or of brilliant gifts may quickly stir our admiration, or, if we are adversaries, afflict us with immediate discomfitures. The man with this gift, particularly if in his case it is not advertised or indexed by more obvious superiorities, has always in his conflicts and rivalries

¹ *Analectic Magazine*, III, 385-386.

the advantage of a strength concealed. One does not guess the lengths of effort he will go to, the perfect use that he will make of all his forces. In all his engagements he will present to his more brilliant adversaries a front like that the sober infantry of Sparta showed so often to the varied and imposing line of the Athenians—an opposition far more daunting than banners and war-songs. Like the Spartans at Mantinea, such men do not need to hearten themselves with telling over to themselves the reasons why they ought to win their battles; they need only remember, what all brave spirits know, that battles are not won till they are fought, that tasks are not accomplished by merely proving one's ability to do them.¹

But Ellsworth had also a quickness of perception, a swiftness in the use of all his mental powers, which may well be accounted as of itself a talent—and a talent of the highest value. Without it, for instance, he could scarcely have handled at all the great mass of his professional work, interrupted as it was with public demands upon his time. His rule, to go at once to the main points of his cases, or of whatever matter he had in hand, seems, and doubtless was, as he formed it, a counsel of modesty; but is it not a rule which we should all most gladly follow if we could? He excelled particularly in expositions. His argument was frequently convincing when he had done no more than merely state the case. More than one observer of his life told Wood of this peculiar excellence of his oratory.² If he was systematic and cautious, he was no mere plodder in his work.

Nor was he in fact wanting in the power of commanding respect and attention for his own sake, apart from his work. For that effect, also, in the immediate contact with one's fellows, the central gift is probably the best of all, particularly as the possessor of it advances in achievement and self-confidence. Aided as it was in Ellsworth's case by an uncommon physical endowment, it was enough to make him, according to one perhaps too glowing eulogist, a person of extraordinary presence. It is Dr. Dwight who on this point is again the loudest in his praise. "Mr. Ellsworth," he wrote,³ "was formed to be a great man. His person was tall, dignified, and commanding; and his manners, though wholly destitute of haughtiness, and arrogance, were such, as irresistibly to excite in others, wherever he was present, the sense of inferiority. His very attitude inspired awe." He adds that "in every assembly, public and private, in which he appeared, after he had fairly entered public life, there was probably no man, when Washington was not present, who would be more

¹ See Thucydides, *Peloponnesian War*, V, 69.

² Wood MS.: Flanders, II, 66.

³ Dwight, *Travels in New-England*, I, 302, 303.

readily acknowledged to hold the first character." Dwight, no doubt, was partial to Ellsworth both as his own personal friend and as a Connecticut worthy; but the tribute is sustained by other men's accounts of him. Hollister, for instance, who in writing his *History of Connecticut* seems to have drawn freely on the recollections of his elders, makes a very similar portrait:¹

Ellsworth was logical and argumentative in his mode of illustration, and possessed a peculiar style of condensed statement, through which there ran, like a magnetic current, the most delicate train of analytical reasoning. His eloquence was wonderfully persuasive, too, and his manner solemn and impressive. His style was decidedly of the patrician school, and yet so simple that a child could follow without difficulty the steps by which he arrived at his conclusions. That he also had the best judicial powers that were known in that elder age of our republic, will not be disputed. Add to these qualities, an eye that seemed to look an adversary through, a forehead and features so bold and marked as to promise all that his rich deep voice, expressive gestures and *moral fearlessness*, made good, add above all that reserved force of scornful satire, so seldom employed, but so like the destructive movements of a corps of flying artillery, and the reader has an outline of the strength and majesty of Ellsworth.

All alike bear testimony that the impressiveness of his person and demeanor was never marred by the least haughtiness or superciliousness. His manners, though perfectly dignified, were also perfectly simple and democratic.

To attempt in this fashion a character of the man while he is still at the threshold of his life-work is doubtless a somewhat unusual proceeding. It is better, as a rule, to reveal a personality with incidents; to let the man's own words and deeds make plain his quality. But that preferred biographic method is peculiarly hard to apply to Ellsworth, partly for reasons that have already been suggested. In his recorded activities, as well as in his scanty writings and his all-too-few recorded utterances, there is too little of self-revelation, too little of what we can be sure was characteristic. It is necessary, if we would gain any distinct and personal vision of him, to use at once the aids we have at hand from men who saw him in the flesh. Moreover, his tasks were often so momentous, and those which were constructive in their nature have proved so lastingly, so increasingly important, that we are moved to use what knowledge we can get of him as a means to explain his achievements, and to judge how great his part was in those he shared with others, rather than to treat his work merely as the means to study him. There are few lives in which what may be called the public values so outweigh the personal.

¹ Gideon Hiram Hollister, *History of Connecticut* (New Haven, 1855, 2 vols.), II, 441-442.

It was doubtless his growing reputation as a lawyer and his membership in the assembly that caused him to be drawn at once into the stirring activities of the great year 1775, and determined what his part in them should be. Of his part in the patriot movement up to this time little is recorded. It is stated that he was for a while a member of the militia or of some other volunteer force, and that he was once or twice called into the field, though never engaged in any action.¹ But when or where he served is no better known than when or where he was earlier engaged in school-teaching. Wood says that his service was in the militia during the Revolutionary War, when the state was threatened with invasion.² It does appear, however, that he was from the first thoroughly in sympathy with the popular feeling and early committed to the movement of resistance. When the crisis came, he would have been cold indeed if from any sort of conservatism he had stood apart from his kindred and his neighbors.

The whole story, if one reviews it afresh from the point of view of manhood, which is so very different from that childish acceptance of heroism and virtue and devotion as mere matters-of-course with which one heard it first, remains, surely, one of the most inspiring and astounding ever told. The Revolution, considered as a popular movement, was singularly noble and singularly wise. Much in our more recent past that has been highly vaunted seems, by comparison, in spite of its bigness, vapid, showy, and half-hearted. Save only in the nobler passages of the long fight over slavery, we find nowhere else in our history such wonderful sincerity and simplicity, such recklessness of all but high considerations, such courage of convictions, so childlike and magnificent a confidence in principle. The best virtue that has yet appeared in our national life and character was all encompassed in the flame of that first enthusiasm. No civic or citizenly quality we now possess surpasses, or could surpass, the spirit of nationality that leapt alive in all the towns and little cities and plantations from New Hampshire to Georgia when the obstinate king and the vain ministry, instead of thanking their stars that they were safely past the trouble over the Stamp Act, blundered on to the tax on tea and the Boston Port Bill.

None of the colonies caught fire more quickly than Connecticut. The little province proved a veritable tinder-box. Ten years before, her government had responded to the first announcement of the Stamp Act programme with the promptest and firmest of remonstrances. Jared Ingersoll, who was at once commissioned a special

¹ Flanders, II, 68.

² Wood MS.

agent at London, probably accomplished more than any other of the agents there by way of inducing the ministry to soften the intended blow. Yet when he himself returned as the stamp master of the colony, an uprising of the people, bigger and more determined than he or any other had foreseen, forced him, in the most spectacular manner, to resign the office. The Sons of Liberty, headed by Rufus Putnam, were strong in all the towns of the colony; it has even been claimed that the order originated there. In her earlier controversies with the home government, Connecticut's course, though resolute, had been peculiarly cautious and respectful.¹ But from this time not even Massachusetts was more openly defiant. Roger Sherman, a lawyer-merchant of New Haven, "between fifty and sixty, a solid, sensible man", took stronger ground than even Otis or John Adams on the question of the right of the home government to control the trade of the colonies.² Sherman had been more or less concerned in public affairs for twenty years; but now, retired from business, he gave his whole time to the service of his colony and the cause of the colonies in general. In all the general measures of protest and resistance against those acts of the home government which were deemed oppressive, the government, the towns, and the people of Connecticut were eager and enthusiastic. Watching with intense concern the course of events in Massachusetts, they expressed by words and acts that were anything but uncertain their sympathy and anger. When Townshend's act to tax the colonies was passed, Connecticut merchants entered generally into the non-importation agreement, and they seem to have kept it better than their neighbors of New York. In 1770, after many indignant town-meetings, that perfect means of popular agitation, delegates from all the towns met at New Haven to insist upon a programme of non-importation and the building up of home manufactures. The sentiment against the use of articles imported from Great Britain rose to violent heights and expressed itself in many ways, some of which were fairly comical. In 1770 Jonathan Trumbull entered upon the office of governor, which by successive annual elections he continued to hold for fourteen years. Men like Jefferson and Henry and Rutledge held the same office in other colonies at different times in the Revolutionary era, but for his conduct of the office itself Trumbull doubtless outranks them all. He was not merely in sympathy with the popular movement, he was a bold and devoted leader

¹ Johnston, *Connecticut*, chap. xvi, *passim*.

² Diary of John Adams in *Works*, II, 343. See also Lewis Henry Boutell, *The Life of Roger Sherman* (Chicago, 1896), 63-64, 84. Perhaps the best account of Connecticut in the Revolution is still the old-fashioned but readable narrative of Hollister, in his *History of Connecticut*, II, chaps. v-xviii.

of it. Not even Putnam went beyond him in courage, and he exhibited moreover a statesmanlike wisdom and a shrewdness that was equal to his enthusiasm. He came in time to enjoy in an extraordinary degree the confidence and affection of Washington. It was Washington who gave him his sobriquet of "Brother Jonathan".

Save that the actual collision came first at Boston, there was nothing to distinguish the resistance of Connecticut from that of Massachusetts. If anything, the people and the towns of Connecticut were in even greater haste than those of Massachusetts to proclaim that the fight was their fight. When the ministry abandoned all the duties except those on tea and made its attempt to force tea into the colonial ports, the people of Connecticut had no opportunity for a tea-party of their own. But when General Gage arrived at Boston to carry out the Port Bill and the other force bills of 1774, the Connecticut towns came to Boston's rescue with generous contributions and the most open sympathy; and the Connecticut assembly, being then in session, took the lead in calling for another Continental Congress. The excitement rose to fever-heat as one after another the fateful moves were made by Gage on the one hand and Adams and Hancock and Warren on the other. At last came the runners with tidings of bloodshed at Lexington and Concord, and Putnam, dropping his historic plow in its unfinished furrow, was for a moment in consultation with Trumbull at Lebanon and then away on his ride of a hundred miles and more in eighteen hours to Concord, the militia following him, first in little squads, then in companies, and then in regiments. Arnold, the New Haven storekeeper, seizing without authority the powder he needed for his company, was gone, too, on his way to Cambridge and Ticonderoga and Quebec, and to immortality and infamy. The plan of the attack on Ticonderoga and Crown Point was instantly conceived at Hartford, and the means to furnish the expedition were subscribed by Connecticut men. When it reached the Green mountains, it was joined there by Ethan Allen and others who were themselves Connecticut men by birth. It was finally paid for by the Connecticut assembly.

That body was in session by the twenty-sixth of April, nine days after the fighting in Massachusetts; and the deputy from Windsor was at once engaged with his fellows upon measures from which there could be no retreat.¹ They passed an embargo on food-stuffs; sent a committee to wait on Gage with a powerful remonstrance from Governor Trumbull, and another committee to look after supplies for those citizens who were gone already to the relief of Massachusetts; commissioned runners to keep them informed of all the

¹ *Colonial Records of Connecticut*, XIV, 413-440.

new and startling happenings; organized one-fourth of the militia into six full regiments, officered them, and looked about for arms and powder to equip them; imposed new taxes to cover these preparations; and called on all the ministers with their congregations to "cry mightily to God".¹ To supervise the expenditures for these warlike activities they also constituted a commission called the Committee of the Pay Table; and one of the four members was Ellsworth.² It was perhaps because of this, his first Revolutionary task, that Ellsworth's name does not thereafter appear in the rolls of the assembly until 1779. At the May session of that year he was again a deputy, this time for Hartford³; but at the October session, having been chosen to the Council of Safety,⁴ he did not sit.

The work of the Pay Table seems to have steadily increased from the beginning. It was then empowered to audit and discharge all accounts incurred in the defense of the colony, and ordered to proceed according to such directions and rules as the assembly should pass from time to time; and from time to time the assembly did pass votes of a nature to enlarge its duties and responsibilities. It became a sort of fiscal war board, in constant correspondence with all commissaries and other persons who had to do with paying or supplying Connecticut's troops and militia. Perhaps the earliest letters of Ellsworth now extant are notes to Governor Trumbull about particular claims—dry business communications which doubtless fairly reflect the tedious and prosaic nature of the work.⁵ There is no sign, however, that he ever complained of it; and there is evidence that he did it faithfully and well, for he was chosen for certain important missions that were necessary parts of it. In February, 1776, the Council of Safety having voted that one of the committee be sent to the general-in-chief of the Continental army to request repayment of moneys advanced by Connecticut to her contingent in his command, it was Ellsworth who went,⁶ and thus, perhaps, he got his first introduction to Washington, who was still at Cambridge, laying siege to Boston. Ten days later, according to the minutes of the council,⁷ "Mr. Ellsworth, having been to Gen^l

¹ *Ibid.*, 435.

² *Ibid.*, 431, for resolution.

³ *The Public Records of the State of Connecticut, 1776-1780* (edited by Charles J. Hoadly, 2 vols., Hartford, 1894-1895), II, 249.

⁴ *Ibid.*, 287.

⁵ September 18, 1776; December 1, December 6, 1777. Trumbull papers, in Massachusetts Historical Society library, many of which are published in *Collections of the Massachusetts Historical Society*, 5th series, IX, X, 7th series, II, III.

⁶ *Colonial Records of Connecticut*, XV, 235.

⁷ *Ibid.*, 238.

Washington by order etc., to obtain the money lately paid by our committee to the soldiers etc., and not able to get it, is returned and present, and convers'd with about it etc.,"—and it is voted that he or some other apply to Congress. It does not appear that he went to Philadelphia, but in May he was sent to General Schuyler to seek recovery of the sums already paid by Connecticut to troops employed in Canada.¹ In the following December, while the first campaign in the Jerseys was in progress, he was sent with several others into the western counties to raise reinforcements for General Lee²—one of the many extraordinary exertions of Trumbull and the people of Connecticut in the common cause. Ten years later, when debate arose in a very great company over the way in which the colonies had borne their several shares of the common burden, Ellsworth could point out, with the quiet firmness of full information, that Connecticut had done more and paid more, according to her numbers and her wealth, than any of the states whose representatives dared to criticize her. It is also to be remembered that this first work of his, petty and local though it seems, was yet of a sort that was quite as vital to the cause as any of the stirring and heroic things Arnold and Putnam were doing in the field. If it had only been as well done everywhere as it was by Connecticut and her Pay Table, the victory might have been won sooner and the struggle would certainly have left behind it fewer unpaid bills and less derangement of the currency. Such devotion as Ellsworth showed in this employment was rarer than the soldiers' skill and bravery. It was also, no doubt, a better preparation for his later tasks in statesmanship than any sort of soldiering could possibly have been.

In 1779 he took his seat in the Council of Safety³, and there his duties were of the same sort that occupied the Board of War, the chief executive arm of the Continental Congress. This may perhaps have been a promotion; but two years earlier he had taken another office which probably demanded more of him in time and energy than it paid for in either money or distinction. In 1777 he was chosen state's attorney for Hartford county.⁴ The office, insti-

¹ *Ibid.*, 314-315.

² *State Records of Connecticut*, I, 109. See also, for his services on the Pay Table, *ibid.*, 183. In the Trumbull collection there is a letter from Ellsworth and Benjamin Payne to Governor Trumbull, dated at Hartford, July 10, 1779, urging him to procure artillery for the militia, to resist an impending invasion of the state. See *ibid.*, II, 358; *Massachusetts Historical Society Collections*, 7th series, II, 407-408.

³ *State Records of Connecticut*, II, 287.

⁴ Loomis and Calhoun, *Judicial and Civil History of Connecticut*, 157-162. None of Ellsworth's biographers gives the date correctly. Several sketches would lead one to think that it was 1775.

tuted in 1704 under the title of king's (or queen's) attorney, had not, during the colonial period, been eagerly sought after, though it does seem to have been held by men of very good standing. With the change of name there came no lessening of its requirements and no increase of pay. The fees were small, the cases uninviting. Yet Ellsworth continued to hold it until 1785, and all we know of him is of a nature to make us feel sure that he did not slight its duties on account of his own private practice or his various other public offices.

To these offices, that same year, 1777, another and a higher was added. At the October session the assembly resolved¹:

That Roger Sherman, Eliphalet Dyar, Samuel Huntington, Oliver Wolcott, Titus Hosmer, Oliver Ellsworth, and Andrew Adams, Esqrs, be and they are hereby appointed Delegates to represent this State at the General Congress of the United States in America, for the year ensuing and untill new be chosen and arrive in Congress if sitting; any one or more of them who shall be present in said Congress are hereby fully authorized and impowered to represent this State in said Congress.

The next year, when Ellsworth was again in the list, the commission was altered so as to require that not less than two nor more than four of the seven delegates should be always in attendance². After 1779 the practice was for the towns to nominate to the assembly candidates for these places, and the order of the names, of which the first twelve were published according to these nominations, may possibly show the relative popularity of the men. In 1778, Ellsworth's name came last of twenty. In 1779, it was the fifteenth of twenty. In 1780, Ellsworth's was the first, and among the eleven names that followed it were those of Roger Sherman, Samuel and Benjamin Huntington, and others scarcely less distinguished.³ He was reelected every year until, in the autumn of 1783, he resigned.

WILLIAM GARROTT BROWN.

¹ *State Records*, I, 417.

² *Ibid.*, II, 134-135.

³ *Ibid.*, 160, 264, 415, 462.